

(3) has been placed in substitute care in this state, regardless of whether the student was enrolled in a public school in this state in the preceding school year.

SECTION 2. Section 30A.052(c), Education Code, is amended to read as follows:

(c) The commissioner shall[:

[~~(1)~~] employ a limited number of administrative employees in connection with the network[; and

[~~(2)~~ contract with a regional education service center for the service center to operate the network].

SECTION 3. This Act applies beginning with the 2017–2018 school year.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2017.

Passed the Senate on April 19, 2017: Yeas 31, Nays 0; the Senate concurred in House amendments on May 17, 2017: Yeas 29, Nays 1; passed the House, with amendments, on May 12, 2017: Yeas 142, Nays 0, one present not voting.

Approved May 26, 2017.

Effective May 26, 2017.

CERTAIN RETAIL INSTALLMENT CONTRACTS AND LEASES FOR VEHICLES; PROVIDING FOR A CIVIL PENALTY

CHAPTER 183

S.B. No. 1052

AN ACT

relating to certain retail installment contracts and leases for vehicles; providing for a civil penalty.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 345.005, Finance Code, is amended to read as follows:

Sec. 345.005. **ITEMIZED CHARGE.** An amount charged to a retail buyer in a retail installment contract or retail charge agreement is an itemized charge if the amount is not included in the cash price and is the amount of:

(1) fees prescribed by law for filing, recording, or otherwise perfecting, releasing, or satisfying a security interest created in connection with a retail installment transaction or nonfiling insurance premiums as authorized by Section 345.212;

(2) fees for registration or a certificate of title;

(3) any taxes;

(4) fees or charges prescribed by law and connected with the sale or inspection of the goods or services subject to the contract or agreement;

(5) premiums and other charges for insurance authorized by Subchapter E;

(6) official fees for a construction permit or the filing or recording of a construction permit;

(7) a documentary fee authorized under Section 345.251; [and]

(8) in a retail installment transaction involving modernization, rehabilitation, repair, alteration, improvement, or construction of real property, reasonable and necessary costs, including amounts, paid by the holder:

(A) for title insurance or title examination and opinion that does not exceed the amount set by the commissioner of insurance for title insurance for the transaction;

(B) to a person who is not a salaried employee of the holder for an appraisal or inspection or for investigating the credit standing or creditworthiness of the retail buyer; or

(C) to an attorney who is not a salaried employee of the holder as a legal fee for the preparation of documents in connection with the transaction; and

(9) charges for a debt cancellation agreement under Chapter 354.

SECTION 2. Subchapter B, Chapter 345, Finance Code, is amended by adding Section 345.084 to read as follows:

Sec. 345.084. DEBT CANCELLATION AGREEMENT. A debt cancellation agreement under Chapter 354 may be offered in connection with a retail installment contract for a covered vehicle to which this chapter applies. For purposes of this section, "covered vehicle" has the meaning assigned by Section 354.001.

SECTION 3. Section 348.114, Finance Code, is amended by amending Subsection (a) and adding Subsection (c) to read as follows:

(a) If a retail installment contract *that provides for a time price differential that is computed using the add-on method or the scheduled installment earnings method* is amended to defer all or a part of one or more installments for not longer than three months, the holder may collect from the retail buyer:

(1) *a deferment charge in an amount computed on the amount deferred for the period of deferment at a rate that does not exceed the effective return for time price differential permitted for a monthly payment retail installment contract; and*

(2) the amount of the additional cost to the holder for:

(A) premiums for continuing in force any insurance coverages provided for by the contract; and

(B) any additional necessary official fees.

(c) *If a retail installment contract that provides for a time price differential that is computed using the true daily earnings method is amended to defer all or a part of one or more installments, the holder may charge and receive from the retail buyer time price differential on the unpaid balance of the contract at the rate agreed to in the contract. At the time of deferment, the holder must provide the following written notice to the retail buyer that is boldfaced, capitalized, or underlined or otherwise conspicuously set out from any surrounding written material: "FINANCE CHARGES WILL CONTINUE TO ACCRUE ON THE UNPAID BALANCE AT THE CONTRACT RATE. BY DEFERRING ONE OR MORE INSTALLMENTS, YOU WILL PAY MORE FINANCE CHARGES THAN ORIGINALLY DISCLOSED." A holder does not collect a deferment charge by the accrual of time price differential on the unpaid balance of the contract.*

SECTION 4. Section 348.124(a), Finance Code, is amended to read as follows:

(a) In connection with a retail installment transaction under this chapter, a retail seller may offer to the retail buyer a debt cancellation agreement, including a guaranteed asset protection waiver or similarly named agreement. *If the retail installment transaction requires insurance coverage as part of the retail buyer's responsibility to the holder, the debt cancellation agreement, guaranteed asset protection waiver, or similarly named agreement must be offered under Chapter 354.* The retail seller may not require that the purchase of a debt cancellation agreement by the retail buyer be made in order to enter into a retail installment transaction.

SECTION 5. Section 348.208(b), Finance Code, is amended to read as follows:

(b) A retail installment contract may include as a separate charge an amount for:

(1) motor vehicle property damage or bodily injury liability insurance;

(2) mechanical breakdown insurance;

(3) participation in a motor vehicle theft protection plan;

(4) insurance to reimburse the retail buyer for the amount computed by subtracting

the proceeds of the buyer's basic collision policy on the motor vehicle from the amount owed on the vehicle if the vehicle has been rendered a total loss;

- (5) a warranty or service contract relating to the motor vehicle;
- (6) an identity recovery service contract; or
- (7) a debt cancellation agreement, *including a debt cancellation agreement under Chapter 354*, if the agreement is included as a term of a retail installment contract under Section 348.124.

SECTION 6. Subchapter G, Chapter 348, Finance Code, is redesignated as Chapter 354, Finance Code, and amended to read as follows:

CHAPTER 354 [SUBCHAPTER G]. [CERTAIN] DEBT CANCELLATION AGREEMENTS FOR CERTAIN RETAIL VEHICLE INSTALLMENT SALES

Sec. 354.001. DEFINITIONS. In this chapter:

- (1) *"Contract" means a retail installment contract made under Chapter 345 or 348.*
- (2) *"Covered vehicle" includes a self-propelled or towed vehicle designed for personal use, including an automobile, truck, motorcycle, recreational vehicle, all-terrain vehicle, snowmobile, camper, boat, personal watercraft, and personal watercraft trailer.*
- (3) *"Debt cancellation agreement" means a contract term or a contractual arrangement modifying a contract term under which a retail seller or holder agrees to cancel all or part of an obligation of the retail buyer to repay an extension of credit from the retail seller or holder on the occurrence of the total loss or theft of the covered vehicle that is the subject of the contract but does not include an offer to pay a specified amount on the total loss or theft of the covered vehicle.*
- (4) *"Holder" means a person who is:*
 - (A) *a retail seller; or*
 - (B) *the assignee or transferee of a contract.*
- (5) *"Retail buyer" means a person who purchases or agrees to purchase a covered vehicle from a retail seller in a retail installment transaction.*
- (6) *"Retail seller" means a person in the business of selling covered vehicles to retail buyers in retail installment transactions.*

Sec. 354.002 [348-601]. LIMITATION ON CERTAIN DEBT CANCELLATION AGREEMENTS. (a) *This chapter [subchapter] applies only to a debt cancellation agreement that includes insurance coverage as part of the retail buyer's responsibility to the holder.*

(b) *The amount charged for a debt cancellation agreement made in connection with a [retail installment] contract may not exceed five percent of the amount financed pursuant to the [retail installment] contract. Section 348.124(c) does not apply to a debt cancellation agreement regulated under this chapter [subchapter].*

(c) *The debt cancellation agreement becomes a part of or a separate addendum to the [retail installment] contract and remains a term of the [retail installment] contract on the assignment, sale, or transfer by the holder.*

(d) *A debt cancellation agreement to which this chapter applies is not insurance.*

Sec. 354.003 [348-602]. DEBT CANCELLATION AGREEMENTS EXCLUSION LANGUAGE. (a) *In addition to the provisions required by Section 354.004 [348-603], a debt cancellation agreement must fully disclose all provisions permitting the exclusion of loss or damage including, if applicable:*

- (1) *an act occurring after the original maturity date or date of the holder's acceleration of the [retail installment] contract;*
- (2) *any dishonest, fraudulent, illegal, or intentional act of any authorized driver that directly results in the total loss of the covered [motor] vehicle;*
- (3) *any act of gross negligence by an authorized driver that directly results in the total loss of the covered [motor] vehicle;*

- (4) conversion, embezzlement, or concealment by any person in lawful possession of the covered ~~[motor]~~ vehicle;
- (5) lawful confiscation by an authorized public official;
- (6) the operation, use, or maintenance of the covered ~~[motor]~~ vehicle in any race or speed contest;
- (7) war, whether or not declared, invasion, insurrection, rebellion, revolution, or an act of terrorism;
- (8) normal wear and tear, freezing, or mechanical or electrical breakdown or failure;
- (9) use of the covered ~~[motor]~~ vehicle for primarily commercial purposes;
- (10) damage that occurs after the covered ~~[motor]~~ vehicle has been repossessed;
- (11) damage to the covered ~~[motor]~~ vehicle before the purchase of the debt cancellation agreement;
- (12) unpaid insurance premiums and salvage, towing, and storage charges relating to the covered ~~[motor]~~ vehicle;
- (13) damage related to any personal property attached to or within the covered ~~[motor]~~ vehicle;
- (14) damages associated with falsification of documents by any person not associated with the retail seller or other person canceling the retail buyer's obligation;
- (15) any unpaid debt resulting from exclusions in the retail buyer's primary physical damage coverage not included in the debt cancellation agreement;
- (16) abandonment of the covered ~~[motor]~~ vehicle by the retail buyer only if the retail buyer voluntarily discards, leaves behind, or otherwise relinquishes possession of the covered ~~[motor]~~ vehicle to the extent that the relinquishment shows intent to forsake and desert the covered ~~[motor]~~ vehicle so that the covered ~~[motor]~~ vehicle may be appropriated by any other person;
- (17) any amounts deducted from the primary insurance carrier's settlement due to prior damages; and
- (18) any loss occurring outside the United States or outside the United States and Canada.

(b) An exclusion of loss or damage not listed in Subsection (a) may be included in a debt cancellation agreement only if the exclusion is disclosed in plain, easy to read language.

Sec. 354.004 ~~[348.603]~~. REQUIRED DEBT CANCELLATION AGREEMENT LANGUAGE. A debt cancellation agreement must state:

- (1) the contact information of the retail seller, the holder, and any administrator of the agreement;
- (2) the name and address of the retail buyer;
- (3) the cost and term of the debt cancellation agreement;
- (4) the procedure the retail buyer must follow to obtain benefits under the terms of the debt cancellation agreement, including a telephone number and address where the retail buyer may provide notice under the debt cancellation agreement;
- (5) the period during which the retail buyer is required to notify the retail seller, the holder, or any administrator of the agreement[,] of any potential loss under the debt cancellation agreement for total loss or theft of the covered ~~[motor]~~ vehicle;
- (6) that in order to make a claim, the retail buyer must provide or complete some or all of the following documents and provide those documents to the retail seller, the holder, or any administrator of the agreement:
 - (A) a debt cancellation request form;
 - (B) proof of loss and settlement payment from the retail buyer's primary

comprehensive, collision, or uninsured or underinsured motorist policy or other parties' liability insurance policy for the settlement of the insured total loss of the covered ~~motor~~ vehicle;

(C) verification of the retail buyer's primary insurance deductible;

(D) a copy of any police report filed in connection with the total loss or theft of the covered ~~motor~~ vehicle; and

(E) a copy of the damage estimate;

(7) that documentation not described by Subdivision (6) or required by the retail seller, the holder, or any administrator of the agreement is not required to substantiate the loss or determine the amount of debt to be canceled;

(8) that notwithstanding the collection of the documents under Subdivision (6), on reasonable advance notice the retail seller, the holder, or any administrator of the agreement may inspect the retail buyer's covered ~~motor~~ vehicle;

(9) that the retail seller or holder will cancel all or part of the retail buyer's obligation as provided in the debt cancellation agreement on the occurrence of total loss or theft of the covered ~~motor~~ vehicle;

(10) the method to be used to calculate refunds;

(11) the method for calculating the amount to be canceled under the debt cancellation agreement on the occurrence of total loss or theft of a covered ~~motor~~ vehicle;

(12) that purchase of a debt cancellation agreement is not required for the retail buyer to obtain an extension of credit and will not be a factor in the credit approval process;

(13) that in order to cancel the debt cancellation agreement and receive a refund, the retail buyer must provide a written request to cancel to the retail seller, the holder, or any administrator of the agreement;

(14) that if total loss or theft of the covered ~~motor~~ vehicle has not occurred, the retail buyer has 30 days from the date of the ~~retail installment~~ contract or the issuance of the debt cancellation agreement, whichever is later, or a longer period as provided under the debt cancellation agreement, to cancel the debt cancellation agreement and receive a full refund;

(15) that the retail buyer may file a complaint with the commissioner, and include the address, phone number, and Internet website of the Office of Consumer Credit Commissioner; and

(16) that the holder will cancel certain amounts under the debt cancellation agreement for total loss or theft of a covered ~~motor~~ vehicle, in the following or substantially similar language: "YOU WILL CANCEL CERTAIN AMOUNTS I OWE UNDER THIS CONTRACT IN THE CASE OF A TOTAL LOSS OR THEFT OF THE COVERED VEHICLE AS STATED IN THE DEBT CANCELLATION AGREEMENT."

Sec. 354.005 [348:604]. APPROVAL OF FORMS FOR DEBT CANCELLATION AGREEMENTS. (a) Debt cancellation agreement forms must be submitted to the commissioner for approval. Debt cancellation agreement forms may include additional language to supplement the terms of the debt cancellation agreement as required by this chapter ~~subchapter~~.

(b) If a debt cancellation agreement form is provided to the commissioner for approval, the commissioner has 45 days to approve the form or deny approval of the form. *On the written request of the person submitting the form, the commissioner may agree in writing to extend the approval period for an additional 45 days.* If after the 45th day, or the 90th day if the commissioner agrees to an extension, the commissioner does not deny the form, the form is considered approved.

(c) If the debt cancellation agreement form is approved by the commissioner or considered approved as provided by Subsection (b), the terms of the debt cancellation agreement are considered to be in compliance with this chapter ~~subchapter~~.

(d) The commissioner may deny approval of a form only if the form excludes the

language required by Sections 354.003 [348.602] and 354.004 [348.603] or contains any inconsistent or misleading provisions. All form denials may be appealed to the finance commission.

(e) If after approval of a form the Office of Consumer Credit Commissioner discovers that approval could have been denied under Subsection (d), the commissioner may order a retail seller, any administrator of the debt cancellation agreement, or a holder to submit a corrected form for approval. Beginning as soon as reasonably practicable after approval of the corrected form, the retail seller, administrator, or holder shall use the corrected form for all sales.

(f) A debt cancellation agreement form that has been approved by the commissioner is public information subject to disclosure under Chapter 552, Government Code. Section 552.110, Government Code, does not apply to a form approved under this *chapter* [subchapter].

Sec. 354.006 [348.605]. ADDITIONAL REQUIREMENTS FOR DEBT CANCELLATION AGREEMENTS. (a) If a retail buyer purchases a debt cancellation agreement, the retail seller must provide to the retail buyer a true and correct copy of the agreement not later than the 10th day after the date of the [retail installment] contract.

(b) A holder must comply with the terms of a debt cancellation agreement not later than the 60th day after the date of receipt of all necessary information required by the holder or administrator of the agreement to process the request.

(c) A debt cancellation agreement may not knowingly be offered by a retail seller if:

(1) the [retail installment] contract is already protected by gap insurance; or

(2) the purchase of the debt cancellation agreement is required for the retail buyer to obtain the extension of credit.

(d) This section does not apply to a debt cancellation agreement offered in connection with the purchase of a commercial vehicle.

(e) The sale of a debt cancellation agreement must be for a single payment.

(f) A holder that offers a debt cancellation agreement must report the sale of and forward money received on all such agreements to any designated party as prescribed in any applicable administrative services agreement, contractual liability policy, other insurance policy, or other specified program documents.

(g) Money received or held by a holder or any administrator of a debt cancellation agreement and belonging to an insurance company, holder, or administrator under the terms of a written agreement must be held by the holder or administrator in a fiduciary capacity.

(h) A retail seller that negotiates a debt cancellation agreement and subsequently assigns the contract shall:

(1) maintain documents relating to the agreement that come into the retail seller's possession; and

(2) on request of the Office of Consumer Credit Commissioner, cooperate in requesting and obtaining access to documents relating to the agreement not in the retail seller's possession.

Sec. 354.007 [348.606]. REFUND FOR DEBT CANCELLATION AGREEMENTS. (a) A refund or credit of the debt cancellation agreement fee must be based on the earliest date of:

(1) the prepayment of the [retail installment] contract in full before the original maturity date;

(2) a demand by the holder for payment in full of the unpaid balance or acceleration;

(3) a request by the retail buyer for cancellation of the debt cancellation agreement; or

(4) the total denial of a debt cancellation request based on one of the exclusions

listed in Section 354.003 [348.602], except in the case of a partial loss of the covered [motor] vehicle.

(b) The refund or credit for the debt cancellation agreement can be rounded to the nearest whole dollar. A refund or credit is not required if the amount of the refund or credit calculated is less than \$5.

(c) If total loss or theft has not occurred, the retail buyer may cancel the debt cancellation agreement not later than the 30th day after the date of the [retail installment] contract or the issuance of the debt cancellation agreement, whichever is later, or a later date as provided under the debt cancellation agreement. On cancellation, the holder or any administrator of the agreement shall refund or credit the entire debt cancellation agreement fee. A retail buyer may not cancel the debt cancellation agreement and subsequently receive any benefits under the agreement.

(d) A holder may in good faith rely on a computation by any administrator of the agreement of the balance waived, unless the holder has knowledge that the computation is not correct. If a computation by the administrator of the balance waived is not correct, the holder must within a reasonable time of learning that the computation is incorrect make the necessary corrections or cause the corrections to be made to the retail buyer's account. This subsection does not prevent the holder from obtaining reimbursement from the administrator or another responsible for the debt cancellation agreement or computation.

(e) If the debt cancellation agreement terminates due to the early termination of the contract, the holder shall, not later than the 60th day after the date the debt cancellation agreement terminates:

- (1) refund or credit an appropriate amount of the debt cancellation agreement fee; or
- (2) cause to be refunded or credited an appropriate amount of the debt cancellation agreement fee by providing written instruction to the appropriate person.

(f) The holder shall ensure that a refund or credit of an amount of a debt cancellation agreement fee made by another person under Subsection (e)(2) is made not later than the 60th day after the date the debt cancellation agreement terminates.

(g) The holder shall maintain records of any refund or credit of an amount of a debt cancellation agreement fee made under Subsection (e) and provide electronic access to those records until the later of the fourth anniversary of the date of the contract or the second anniversary of the date of the refund or credit.

SECTION 7. Title 5, Finance Code, is amended by adding Chapter 397 to read as follows:

CHAPTER 397. DEBT CANCELLATION AGREEMENTS FOR CERTAIN VEHICLE LEASES

Sec. 397.001. DEFINITIONS. In this chapter:

(1) "Covered vehicle" includes a self-propelled or towed vehicle designed for personal use, including an automobile, truck, motorcycle, recreational vehicle, all-terrain vehicle, snowmobile, camper, boat, personal watercraft, and personal watercraft trailer.

(2) "Debt cancellation agreement" means a lease term or a contractual arrangement modifying a lease term under which a lessor or holder agrees to cancel all or part of an obligation of the lessee to pay the lessor or holder on the occurrence of the total loss or theft of the covered vehicle that is the subject of the lease but does not include an offer to pay a specified amount on the total loss or theft of the covered vehicle.

(3) "Holder" means a person who is:

- (A) a lessor; or
- (B) the assignee or transferee of a lease.

(4) "Lease" means a lease for a covered vehicle.

Sec. 397.002. APPLICABILITY. This chapter does not apply to a lease that is a retail

installment transaction under Section 345.068 or 348.002.

Sec. 397.003. *RELATIONSHIP TO INSURANCE.* A debt cancellation agreement to which this chapter applies is not insurance.

Sec. 397.004. *LIMITATION ON CERTAIN DEBT CANCELLATION AGREEMENTS.*
(a) This chapter applies only to a debt cancellation agreement, including a gap waiver agreement or other similarly named agreement, that includes insurance coverage as part of the lessee's responsibility to the holder.

(b) The amount charged for a debt cancellation agreement made in connection with a lease may not exceed five percent of the adjusted capitalized cost financed pursuant to the lease.

(c) The debt cancellation agreement becomes a part of or a separate addendum to the lease and remains a term of the lease on the assignment, sale, or transfer by the holder.

Sec. 397.005. *DEBT CANCELLATION AGREEMENTS EXCLUSION LANGUAGE.*
(a) In addition to the provisions required by Section 397.006, a debt cancellation agreement must fully disclose all provisions permitting the exclusion of loss or damage including, if applicable:

(1) an act occurring after the original maturity date or date of the holder's acceleration of the lease;

(2) any dishonest, fraudulent, illegal, or intentional act of any authorized driver that directly results in the total loss of the covered vehicle;

(3) any act of gross negligence by an authorized driver that directly results in the total loss of the covered vehicle;

(4) conversion, embezzlement, or concealment by any person in lawful possession of the covered vehicle;

(5) lawful confiscation by an authorized public official;

(6) the operation, use, or maintenance of the covered vehicle in any race or speed contest;

(7) war, whether or not declared, invasion, insurrection, rebellion, revolution, or an act of terrorism;

(8) normal wear and tear, freezing, or mechanical or electrical breakdown or failure;

(9) use of the covered vehicle for primarily commercial purposes;

(10) damage that occurs after the covered vehicle has been repossessed;

(11) damage to the covered vehicle before the purchase of the debt cancellation agreement;

(12) unpaid insurance premiums and salvage, towing, and storage charges relating to the covered vehicle;

(13) damage related to any personal property attached to or within the covered vehicle;

(14) damages associated with falsification of documents by any person not associated with the lessor or other person canceling the lessee's obligation;

(15) any unpaid debt resulting from exclusions in the lessee's primary physical damage coverage not included in the debt cancellation agreement;

(16) abandonment of the covered vehicle by the lessee only if the lessee voluntarily discards, leaves behind, or otherwise relinquishes possession of the covered vehicle to the extent that the relinquishment shows intent to forsake and desert the covered vehicle so that the covered vehicle may be appropriated by any other person;

(17) any amounts deducted from the primary insurance carrier's settlement due to prior damages; and

(18) any loss occurring outside the United States or outside the United States and Canada.

(b) An exclusion of loss or damage not listed in Subsection (a) may be included in a debt cancellation agreement only if the exclusion is disclosed in plain, easy to read language.

Sec. 397.006. REQUIRED DEBT CANCELLATION AGREEMENT LANGUAGE. *A debt cancellation agreement must state:*

(1) the contact information of the lessor, the holder, and any administrator of the agreement;

(2) the name and address of the lessee;

(3) the cost and term of the debt cancellation agreement;

(4) the procedure the lessee must follow to obtain benefits under the terms of the debt cancellation agreement, including a telephone number and address where the lessee may provide notice under the debt cancellation agreement;

(5) the period during which the lessee is required to notify the lessor, the holder, or any administrator of the agreement of any potential loss under the debt cancellation agreement for total loss or theft of the covered vehicle;

(6) that in order to make a claim, the lessee must provide or complete some or all of the following documents and provide those documents to the lessor, the holder, or any administrator of the agreement:

(A) a debt cancellation request form;

(B) proof of loss and settlement payment from the lessee's primary comprehensive, collision, or uninsured or underinsured motorist policy or other parties' liability insurance policy for the settlement of the insured total loss of the covered vehicle;

(C) verification of the lessee's primary insurance deductible;

(D) a copy of any police report filed in connection with the total loss or theft of the covered vehicle; and

(E) a copy of the damage estimate;

(7) that documentation not described by Subdivision (6) or required by the lessor, the holder, or any administrator of the agreement is not required to substantiate the loss or determine the amount of debt to be canceled;

(8) that notwithstanding the collection of the documents under Subdivision (6), on reasonable advance notice the lessor, the holder, or any administrator of the agreement may inspect the lessee's covered vehicle;

(9) that the lessor or holder will cancel all or part of the lessee's obligation as provided in the debt cancellation agreement on the occurrence of total loss or theft of the covered vehicle;

(10) the method to be used to calculate refunds;

(11) the method for calculating the amount to be canceled under the debt cancellation agreement on the occurrence of total loss or theft of a covered vehicle;

(12) that purchase of a debt cancellation agreement is not required for the lessee to obtain a lease and will not be a factor in the lease approval process;

(13) that in order to cancel the debt cancellation agreement and receive a refund, the lessee must provide a written request to cancel to the lessor, the holder, or any administrator of the agreement;

(14) that if total loss or theft of the covered vehicle has not occurred, the lessee has 30 days from the date of the lease or the issuance of the debt cancellation agreement, whichever is later, or a longer period as provided under the debt cancellation agreement, to cancel the debt cancellation agreement and receive a full refund; and

(15) that the lessor will cancel certain amounts under the debt cancellation agreement for total loss or theft of a covered vehicle, in the following or substantially similar language: "YOU WILL CANCEL CERTAIN AMOUNTS I OWE UNDER THIS LEASE IN THE CASE OF A TOTAL LOSS OR THEFT OF THE COVERED VEHICLE AS

STATED IN THE DEBT CANCELLATION AGREEMENT."

Sec. 397.007. ADDITIONAL REQUIREMENTS FOR DEBT CANCELLATION AGREEMENTS. (a) *If a lessee purchases a debt cancellation agreement, the lessor must provide to the lessee a true and correct copy of the agreement not later than the 10th day after the date of the lease.*

(b) *A holder must comply with the terms of a debt cancellation agreement not later than the 60th day after the date of receipt of all necessary information required by the holder or administrator of the agreement to process the request.*

(c) *A debt cancellation agreement may not knowingly be offered by a lessor if:*

(1) *the lease is already protected by gap insurance; or*

(2) *the purchase of the debt cancellation agreement is required for the lessee to obtain the lease.*

(d) *This section does not apply to a debt cancellation agreement offered in connection with the lease of a commercial vehicle.*

(e) *The sale of a debt cancellation agreement must be for a single payment.*

(f) *A holder that offers a debt cancellation agreement must report the sale of and forward money received on all such agreements to any designated party as prescribed in any applicable administrative services agreement, contractual liability policy, other insurance policy, or other specified program documents.*

(g) *Money received or held by a holder or any administrator of a debt cancellation agreement and belonging to an insurance company, holder, or administrator under the terms of a written agreement must be held by the holder or administrator in a fiduciary capacity.*

(h) *A lessor that negotiates a debt cancellation agreement and subsequently assigns the lease shall maintain documents relating to the agreement that come into the lessor's possession.*

Sec. 397.008. REFUND FOR DEBT CANCELLATION AGREEMENTS. (a) *A refund or credit of the debt cancellation agreement fee must be based on the earliest date of:*

(1) *the prepayment of the lease in full before the original maturity date;*

(2) *a demand by the holder for payment in full of the unpaid balance or acceleration;*

(3) *a request by the lessee for cancellation of the debt cancellation agreement; or*

(4) *the total denial of a debt cancellation request based on one of the exclusions listed in Section 397.005, except in the case of a partial loss of the covered vehicle.*

(b) *The refund or credit for the debt cancellation agreement can be rounded to the nearest whole dollar. A refund or credit is not required if the amount of the refund or credit calculated is less than \$5.*

(c) *If total loss or theft has not occurred, the lessee may cancel the debt cancellation agreement not later than the 30th day after the date of the lease or the issuance of the debt cancellation agreement, whichever is later, or a later date as provided under the debt cancellation agreement. On cancellation, the holder or any administrator of the agreement shall refund or credit the entire debt cancellation agreement fee. A lessee may not cancel the debt cancellation agreement and subsequently receive any benefits under the agreement.*

(d) *A holder may in good faith rely on a computation by any administrator of the agreement of the balance waived, unless the holder has knowledge that the computation is not correct. If a computation by the administrator of the balance waived is not correct, the holder must within a reasonable time of learning that the computation is incorrect make the necessary corrections or cause the corrections to be made to the lessee's account. This subsection does not prevent the holder from obtaining reimbursement from the administrator or another responsible for the debt cancellation agreement or computation.*

(e) *If the debt cancellation agreement terminates due to the early termination of the*

lease, the holder shall, not later than the 60th day after the date the debt cancellation agreement terminates:

- (1) refund or credit an appropriate amount of the debt cancellation agreement fee; or
 - (2) cause to be refunded or credited an appropriate amount of the debt cancellation agreement fee by providing written instruction to the appropriate person.
- (f) The holder shall ensure that a refund or credit of an amount of a debt cancellation agreement fee made by another person under Subsection (e)(2) is made not later than the 60th day after the date the debt cancellation agreement terminates.
- (g) The holder shall maintain records of any refund or credit of an amount of a debt cancellation agreement fee made under Subsection (e) and provide electronic access to those records until the later of the fourth anniversary of the date of the lease or the second anniversary of the date of the refund or credit.

Sec. 397.009. **ENFORCEMENT.** (a) If the attorney general has reason to believe that a person is engaging in, has engaged in, or is about to engage in any method, act, or practice that is a violation of this chapter, the attorney general may bring an action in the name of the state against the person to restrain the person by temporary restraining order, temporary injunction, or permanent injunction from engaging in the method, act, or practice.

(b) An action brought under Subsection (a) may be commenced in the district court of the county in which the person against whom the action is brought resides, has the person's principal place of business, or has done business, in the district court of the county in which any or all parts of the method, act, or practice giving rise to the action occurred, or, on the consent of the parties, in a district court of Travis County. The court may issue a temporary restraining order, temporary injunction, or permanent injunction to restrain or prevent a violation of this chapter and injunctive relief must be issued without bond.

(c) In addition to the request for a temporary restraining order, temporary injunction, or permanent injunction, the attorney general may request, and the trier of fact may award, a civil penalty to be paid to the state in an amount of not more than \$20,000 per violation.

(d) The attorney general may recover reasonable expenses incurred in obtaining injunctive relief or a civil penalty under this section, including reasonable investigative costs, court costs, and attorney's fees.

SECTION 8. Section 2301.002(36), Occupations Code, is amended to read as follows:

(36) "Vehicle lessor" means a person who leases or offers to lease a motor vehicle[; ~~under a lease, transfers~~] to another person under a lease agreement [~~the right to possession and use of a motor vehicle titled in the name of the lessor~~].

SECTION 9. Subchapter L, Chapter 2301, Occupations Code, is amended by adding Section 2301.5555 to read as follows:

Sec. 2301.5555. **AUTHORITY TO SIGN VEHICLE LEASE AS LESSOR.** Notwithstanding Section 2301.251, a licensed vehicle lease facilitator may sign a vehicle lease agreement as a vehicle lessor before the vehicle lease is assigned, transferred, or conveyed to an ultimate lessor.

SECTION 10. This Act takes effect September 1, 2017.

Passed the Senate on April 19, 2017: Yeas 31, Nays 0; the Senate concurred in House amendments on May 16, 2017: Yeas 30, Nays 0; passed the House, with amendments, on May 11, 2017: Yeas 146, Nays 0, one present not voting.

Approved May 26, 2017.

Effective September 1, 2017.